IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.46 OF 1999

The Commissioner of Income Tax
Bombay City XIV, Bombay .. Applicant
V/s
Omprakash V.Dujodwala .. Respondent

Mr.A.S.Rao for the Applicant.

Ms.Beena Pillai i/by Mr.D.M.Harish & Co. for the Respondent.

CORAM : DR.S.RADHAKRISHNAN & J.P.DEVADHAR, JJ.

DATE : 5th March, 2007.

JUDGMENT:- (PER DR.S.RADHAKRISHNAN,J.)

1. Heard the learned Counsel for the parties. This application was admitted on 12th April, 1999 with regard to the following substantial question of law:-

> "Whether on the facts and in the circumstances of the case, the ITAT was right in law in deleting the penalty levied U/s.271(1)(c) of the I.T.Act, in each of the above cases".

2. The matter pertains to the Assessment Year 1979-1980. Perused the order of the Income Tax Appellate Tribunal dated 21.08.1998 wherein paragraph No.5 reads as under:-

> "5. It may be observed that the Tribunal came to the conclusion that the letter of CIT dated 5.3.84 requesting the assessees to file a petition u/s.273A as an implicit assurance to waive the penalties. It further observed that the assessees came forward with revised returns only in the light of this assurance and so the penalties in question were not leviable. It also observed that, there was no material with the department which cast any doubts on the genuineness of the gifts. It also observed that, nothing

prevented the department from making further enquiries into the genuineness of the case, notwithstanding the fact that the assessees addressed their letter to the CIT requesting for settlement. In the circumstances, we are of the view that the order of the Tribunal is based only on finding of facts and no question of law arises from the Tribunal order. The applications are accordingly rejected.

3. The findings recorded by the Tribunal are the findings of facts. In view thereof, there is no substantial question of law involved in this matter. Hence, Application stands dismissed.

(J.P.DEVADHAR, J.) **(DR.S.RADHAKRISHNAN,J.)**